

CCRB INVESTIGATIVE RECOMMENDATION

Investigator: Jacqueline Asencio	Team: Team # 1	CCRB Case #: 200900638	<input checked="" type="checkbox"/> Force	<input type="checkbox"/> Discourt.	<input type="checkbox"/> U.S.
			<input checked="" type="checkbox"/> Abuse	<input type="checkbox"/> O.L.	<input type="checkbox"/> Injury
Incident Date(s) Friday, 01/09/2009 8:00 PM	Location of Incident: § 87(2)(b)	Precinct: 47	18 Mo. SOL 7/9/2010	EO SOL 7/9/2010	
Date/Time CV Reported Wed, 01/14/2009 3:09 PM	CV Reported At: CCRB	How CV Reported: Call Processing System	Date/Time Received at CCRB Wed, 01/14/2009 3:09 PM		

Complainant/Victim	Type	Home Address
§ 87(2)(b)	§ 87(2)(b)	§ 87(2)(b)

Witness(es)	Home Address
§ 87(2)(b)	§ 87(2)(b)
§ 87(2)(b)	§ 87(2)(b)

Subject Officer(s)	Shield	TaxID	Command
1. POM Juan Rodriguez	16076	939343	047 PCT
2. An officer			
3. SGT Michael Milmore	04059	895742	047 PCT
4. POM Daniel Beddows	30576	926556	047 PCT
5. POM Robert Roda	01234	939332	047 PCT

Officer(s)	Allegation	Investigator Recommendation
A.POM Juan Rodriguez	Force: PO Juan Rodriguez used physical force against § 87(2)(b)	§ 87(2)(b)
B.SGT Michael Milmore	Abuse: Sgt. Michael Milmore entered and searched § 87(2)(b) in the Bronx.	§ 87(2)(b)
C.POM Juan Rodriguez	Abuse: PO Juan Rodriguez entered and searched § 87(2)(b) in the Bronx.	§ 87(2)(b)
D.POM Daniel Beddows	Abuse: PO Daniel Beddows entered and searched § 87(2)(b) in the Bronx.	§ 87(2)(b)
E.POM Robert Roda	Abuse: PO Robert Roda entered and searched § 87(2)(b) in the Bronx.	§ 87(2)(b)
F. An officer	Abuse: An officer damaged § 87(2)(b)'s property.	§ 87(2)(b)

Synopsis

§ 87(2)(b) filed this complaint with the CCRB via the call processing system on January 14, 2009. On January 9, 2009, at approximately 8:00pm, § 87(2)(b) called 911 to report that his stepfather, § 87(2)(b) had menaced him with a gun inside their home, located at § 87(2)(b) in the Bronx. § 87(2)(b) left his home before the officers arrived at the location. Sgt. Michael Milmore, PO Juan Rodriguez, PO Daniel Beddows, and PO Robert Roda, all from the 47th Precinct, responded to the scene. When § 87(2)(b) returned to his residence, PO Rodriguez allegedly pushed him inside his apartment and he fell to the floor (**Allegation A**). Sgt. Milmore, PO Rodriguez, PO Beddows, and PO Roda entered § 87(2)(b)'s residence (**Allegations B, C, D, and E**). As § 87(2)(b) lay on the floor, Sgt. Milmore grabbed his arm, and placed it behind his back, while he had his knee on § 87(2)(b)'s head to keep it down. During this time, PO Rodriguez allegedly hit § 87(2)(b) approximately five times on his chest (**Allegation A continued**). PO Rodriguez then handcuffed § 87(2)(b). After § 87(2)(b) was placed in handcuffs, he was seated on his couch in his living room. Sgt. Milmore, PO Rodriguez, PO Beddows, and PO Roda began to search his residence without his consent (**Allegations B, C, D, and E continued**). During the search, an unidentified officer broke § 87(2)(b)'s closet door (**Allegation F**). After the search, § 87(2)(b) was transported to the 47th Precinct stationhouse.

§ 87(2)(g)

Summary of Complaint

Statements to the CCRB

§ 87(2)(b) was interviewed at the CCRB on February 13, 2009 (encl. 9a-9e). At the time of the interview, § 87(2)(b) a § 87(2)(b)-old Hispanic male, § 87(2)(b)

§ 87(2)(g)

He provided the following statement:

On January 9, 2009, at approximately 8:00pm, § 87(2)(b) was arguing with his wife, § 87(2)(b) over a fan that his stepson, § 87(2)(b) broke in their apartment, located at § 87(2)(b) in the Bronx. (In his in-person statement, § 87(2)(b) stated that his wife's name was § 87(2)(b). During the course of the investigation, § 87(2)(b)'s wife's name was discovered to be § 87(2)(b).) § 87(2)(b) stated that he was arguing with his wife and the argument was not physical, nor was it not loud enough for his neighbors to hear. § 87(2)(b) got in the middle of the argument between his stepfather and mother and he too began to argue with them. § 87(2)(b) saw a bag of groceries and threw a box of soup at § 87(2)(b). § 87(2)(b) stated that the box did not hit § 87(2)(b) but grazed his upper arm. At that point, § 87(2)(b) told his parents that he was going to leave the apartment but § 87(2)(b) grabbed him by the hand. § 87(2)(b) proceeded to grab his wife's hand and § 87(2)(b)'s hand and separated them. § 87(2)(b) told his wife to let him go, and let him leave. § 87(2)(b) left the apartment and § 87(2)(b) went to watch television in the living room. At the time, § 87(2)(b) was wearing a white and yellow sweater, jeans, and boots.

Approximately half an hour later, § 87(2)(b) returned to the apartment with § 87(2)(b) and two unidentified Hispanic males that § 87(2)(b) had never seen before. The men stood by the end of the hallway toward the living room. One of the Hispanic men asked § 87(2)(b) in an aggressive tone, why he hit § 87(2)(b). § 87(2)(b) told the man that he did not hit § 87(2)(b). A chubby Hispanic male told § 87(2)(b) that if he hits § 87(2)(b) again he was going to have a "problem" with them. § 87(2)(b) asked the men who they were and they told him that they were § 87(2)(b)'s friends. § 87(2)(b) told the men that he is § 87(2)(b)'s father. At that point, the chubby Hispanic male, who had his hands inside his front pockets, took his hand out of his pocket and showed § 87(2)(b) a gun handle and trigger. The chubby Hispanic male told § 87(2)(b) to leave the apartment. During this time, § 87(2)(b) was in the living room,

but she did not see § 87(2)(b) talking to the men because she was further inside the living room and § 87(2)(b) was standing closer to the hallway and his back was toward her.

§ 87(2)(b) left the apartment after the chubby Hispanic male told him to do so and returned approximately seven to ten minutes later. When § 87(2)(b) was entering the apartment building, he heard someone say, "Excuse me." § 87(2)(b) ignored the person because he thought the man was one of the same three men that had been in his apartment. Once § 87(2)(b) opened the door to his apartment, an officer pushed him on his side against the door.¹ § 87(2)(b) stated that he did not know which officer pushed him inside the apartment. § 87(2)(b) fell to the floor and landed on his right side. § 87(2)(b) claimed that approximately four officers fell on top of him. He stated that he was not injured from the fall. At that point, an officer, identified as PO Juan Rodriguez from the 47th Precinct, asked him, "Why did you run? Down. Down."

As § 87(2)(b) was on the floor, an officer, later identified as Sgt. Michael Milmore from the 47th Precinct, grabbed his arm, placed it behind his back, and put his knee on § 87(2)(b)'s head to keep it down. At that point, PO Rodriguez hit § 87(2)(b) approximately five times with his hand against his chest as an unidentified white male dressed in uniform was placing him in handcuffs. § 87(2)(b) denied that he was resisting, however, he stated that he was screaming because he could not breathe with the way the officer had his head on the floor.

After § 87(2)(b) was placed in handcuffs, he was seated on the couch. PO Rodriguez told § 87(2)(b) "Tell me where the gun is." § 87(2)(b) told PO Rodriguez about the incident that occurred with the men that were at his apartment. § 87(2)(b) then saw PO Rodriguez and other officers searching his apartment. § 87(2)(b) saw PO Rodriguez open a closet door and take things out. § 87(2)(b) stated that his locked safe was opened, his clothes were taken out, and his luggage was searched. § 87(2)(b) told the officers that what they were doing was illegal and § 87(2)(b) was informed that they are the police and was told, "Shut your mouth."

The white uniformed officers went into his bedroom, but § 87(2)(b) did not see what they were doing in there. During this time, § 87(2)(b) and § 87(2)(b) were not in the apartment. § 87(2)(b) stated that an officer broke his closet door. He stated that he did not see who broke the closet door because he was not present at the time. When the officers did not find a gun in the apartment, PO Rodriguez transported § 87(2)(b) to the stationhouse. § 87(2)(b) was charged with possession of ammunition.

Results of Investigation

Witness Statement

§ 87(2)(b) a § 87(2)(b)-old Hispanic male, provided a brief phone statement to the CCRB on March 10, 2009 (encl. 11a). He stated the following:

On January 9, 2009, § 87(2)(b)'s mother and § 87(2)(b) were arguing at their residence and § 87(2)(b) tried to separate them, but § 87(2)(b) hit him. § 87(2)(b) left the home and returned with his friend, § 87(2)(b). § 87(2)(b) asked § 87(2)(b) why he hit § 87(2)(b). § 87(2)(b) became loud and walked into his room and came back out with a black machine gun and pointed it at them and told them, "All of you better leave my house right now." § 87(2)(b) stated that his mother was present during this time. The men complied. As § 87(2)(b) was getting inside his vehicle, § 87(2)(b) exited his residence. § 87(2)(b) drove away from the scene. § 87(2)(b) proceeded to chase § 87(2)(b) by car on the highway, but he got off the next exit. § 87(2)(b) called the police and told them about the gun. § 87(2)(b) did not see § 87(2)(b)'s interaction with the police and stated that his mother did not go with him in the car and remained in the apartment.

Attempts to contact civilians

Since § 87(2)(b) was listed as a complainant on the complaint report, the undersigned called her at the phone number listed on the report on March 3, March 6, March 10, March 11, and March 18, 2009 and left

¹ Earlier in the interview, § 87(2)(b) stated that police officers entered the apartment, grabbed him, and threw him to the floor.

her messages to contact the undersigned. The investigator also mailed § 87(2)(b) “please call” letters on March 3 and April 23, 2009. § 87(2)(b) never contacted the undersigned regarding this case and the “please call” letters were not returned by the United States Post Office.

§ 87(2)(g)

Officer Statements

PO Juan Rodriguez

PO Juan Rodriguez was interviewed at the CCRB on March 31, 2009 (encl. 13a-13c). On January 9, 2009, PO Rodriguez, a § 87(2)(b)-old Hispanic male, worked in plainclothes with Sgt. Michael Milmore, PO Daniel Beddows, and PO Robert Roda. The officer was assigned to the anti-crime team. PO Rodriguez noted § 87(2)(b)'s arrest in his memo book at 8:40pm (encl. 12a-12b).

Complaint Report: PO Juan Rodriguez

On January 9, 2009, PO Rodriguez prepared a complaint report (encl. 22a-22c). PO Rodriguez wrote, § 87(2)(a) 160.50

OLBS Worksheet: PO Juan Rodriguez

PO Rodriguez prepared an arrest report for § 87(2)(b) on January 9, 2009 (encl. 23a-23b). The officer wrote the following on the report: “§ 87(2)(a) 160.50

CCRB Statement: PO Juan Rodriguez

On January 9, 2009, at approximately 8:00pm, PO Rodriguez and his team received a call regarding a man with a firearm at § 87(2)(b) in the Bronx. Though not entirely sure, PO Rodriguez believed that the description of the suspect was a “Hispanic male,” but PO Rodriguez did not recall if Central provided descriptions of the suspect’s clothing, height, or weight. PO Rodriguez and his team arrived at the scene about two minutes after getting the initial call about the firearm. PO Rodriguez described § 87(2)(b) as a two family home with four steps that led to the front door. Once they pulled up in front of the house, they had a clear view of § 87(2)(b) who was walking toward the house of interest. PO Rodriguez and his team did not knock on the door of the house before they saw § 87(2)(b). § 87(2)(b) was wearing only a polo shirt and jeans in very cold weather, and PO Rodriguez decided to talk to him. PO Rodriguez did not see any suspicious bulges on § 87(2)(b)'s body at this time. Nothing obstructed PO Rodriguez’s view of § 87(2)(b) who was positioned about twenty yards from him. After PO Rodriguez exited the police vehicle, his teammates followed him toward the house.

PO Rodriguez became very suspicious when he noticed that § 87(2)(b) was nervous and inappropriately dressed for the very cold weather. PO Rodriguez identified himself as a police officer to § 87(2)(b) in English and Spanish. He asked § 87(2)(b) to walk over to him so that they could speak. PO Rodriguez approached § 87(2)(b) as he addressed him because he did not want to talk from so far away. PO Rodriguez asked various questions, such as “Do you live here, sir?” and “Is everything okay?” § 87(2)(b) spoke nervously and his hands shook as PO Rodriguez addressed him. § 87(2)(b) backed away from PO Rodriguez, looking toward the door of the house, and responded anxiously. PO Rodriguez did not know if there were other people in the house at this time.

When § 87(2)(b) saw a marked police van pull up behind PO Rodriguez, he got nervous, turned around, and ran into the house. PO Rodriguez could not remember the names of the officers driving the marked police van, but thinks that there were three uniformed male police officers inside the vehicle. After § 87(2)(b) started running away, PO Rodriguez instructed him to stop, but he did not comply. As PO Rodriguez and his partners followed him into the house, he tried to shut the door in their faces. PO Rodriguez put his hands out to keep the door open and § 87(2)(b) escaped to the kitchen. PO Rodriguez followed him and tried to place him in handcuffs because he was going towards the kitchen, where PO Rodriguez assumed there

were knives. PO Rodriguez stated that from the front door of the apartment, there is a kitchen that is fifteen feet in front of the door.

As § 87(2)(b) approached the sink with both arms extended forward, PO Rodriguez grabbed § 87(2)(b)'s arms from behind and tried to restrain him in a "bear hug" position. PO Rodriguez wanted to restrain § 87(2)(b) before he was able to pick up anything. PO Rodriguez noticed that § 87(2)(b) was making motions toward his waistband, where he suspected a firearm might be hidden. § 87(2)(b) resisted by moving from side-to-side and refusing to put his hands behind his back. At this point, there were other officers attempting to restrain him by trying to grab § 87(2)(b)'s hand as PO Rodriguez had a hold of one hand. Though he is not entirely sure, PO Rodriguez thinks that the other officers involved were the uniformed officers who arrived in the police van. PO Rodriguez does not remember if § 87(2)(b) said anything to him at this time; all he can recall is repeatedly demanding that § 87(2)(b) put his hands behind his back. At one point during the struggle, PO Rodriguez and § 87(2)(b) fell to the ground face-forward. § 87(2)(b) faced the ground as he tried to move his hands underneath his body to his waistband area. PO Rodriguez and the other officers continued to pull § 87(2)(b)'s arms back. In the end, PO Rodriguez was the officer who successfully handcuffed him. PO Rodriguez stated that he did not know where his partners were at the time.

After he was handcuffed, § 87(2)(b) was placed in the living room. PO Rodriguez began to question him, asking "Why did you run?", "What's the problem?", and "Is there anyone else in the house with you?" § 87(2)(b) said that he had been arguing with his stepson. PO Rodriguez asked § 87(2)(b) if he had a gun with him and if he owned a gun. § 87(2)(b) denied owning a gun and allowed the officers to search his house. There was no one else in the house at this time. At this point, the witnesses who placed the emergency call about the firearm came into the house. His wife, stepson, and three of his stepson's friends told PO Rodriguez that § 87(2)(b) was very abusive and had menaced them with a machine gun.

PO Rodriguez searched the bedroom and a few of the closets with the consent of § 87(2)(b). PO Rodriguez stated that § 87(2)(b) gave consent to search the apartment in Spanish. None of the other officers on PO Rodriguez's team speak Spanish. PO Rodriguez stated that his partners also searched the apartment. The officers found 9-mm ammunition in § 87(2)(b)'s bedroom that was in plain sight. He does not know where exactly his partners looked. When asked if he had an ID card, § 87(2)(b) told the officers that it was in his bedroom closet on top of a suitcase, and PO Rodriguez asked if he could go look at it. On top of the suitcase PO Rodriguez found a Providence Rhode Island State ID and a New York State ID with different names on each. PO Rodriguez asked him which ID actually belonged to him, and § 87(2)(b) said that one of them wasn't him. PO Rodriguez claimed that the pictures on each ID were identical. The gun was never found, though PO Rodriguez emphasized that because § 87(2)(b) came into the house from outside, there is no way of them knowing whether or not he had possessed one earlier in the day. PO Rodriguez stated that a canvass was conducted in the neighborhood because they did not know if § 87(2)(b) got rid of the gun as he was outside.

The officers asked § 87(2)(b) about the contents of his locked safe, and he told them that they could open it and look inside if they so desired. They told him that they did not have a key, and he told them that he would go find it if necessary, at which point PO Rodriguez told him to just forget it. During the incident, PO Rodriguez spoke to § 87(2)(b) in Spanish, and did not believe that his English-speaking skills are very strong.

After the search ended, PO Rodriguez and the officers questioned each of the witnesses separately in the house. Each gave the same account of § 87(2)(b) menacing them with a machine gun, which provided the basis for his arrest. When asked if he or any of his partners broke the closet door, PO Rodriguez said that no one had done so. PO Rodriguez also denied having ever hit § 87(2)(b) during the arrest. At no time was § 87(2)(b) ever pushed through the door.

Sgt. Michael Milmore

Sgt. Michael Milmore provided a statement to the CCRB on April 23, 2009 (encl. 15a-15b). On January 9, 2009, Sgt. Milmore, a § 87(2)(b)-old white male, worked in plainclothes with PO Juan Rodriguez, PO Daniel Beddows, and PO Robert Roda. The sergeant was assigned to the anti-crime unit. Sgt. Milmore noted in his

memo book that he responded to a call regarding a possible crime at § 87(2)(b) at 8:40pm. The sergeant also noted § 87(2)(b)'s arrest in his memo book at 11:07pm (encl. 14a-14b).

CCRB Statement: Sgt. Michael Milmore

On January 9, 2009, at approximately 8:40pm, Sgt. Milmore and PO Rodriguez responded to a radio run of a family dispute at § 87(2)(b) involving a man with a gun. Sgt. Milmore did not recall if Central put out a description of the suspect, but stated that Central gave the address in the radio run. As the officers pulled up to the residence, Sgt. Milmore observed § 87(2)(b) standing on the sidewalk in front of the house, which he described as a small house split into apartments with approximately eight or nine stairs leading to the apartments. PO Rodriguez, who was driving the patrol car, asked § 87(2)(b) through his open window whether he had called the police and § 87(2)(b) began to slowly back away toward the house. When § 87(2)(b) turned and ran toward the front door, Sgt. Milmore and PO Rodriguez got out of the police car and ran after him, with the intent of stopping him from entering the house since the radio call came over as a man with a gun and the officers did not want a hostage situation.

§ 87(2)(b) ran toward the front door and began fumbling with his keys. As he opened the door, Sgt. Milmore and PO Rodriguez followed § 87(2)(b) through the front door and forcibly stopped him in the kitchen, located approximately eight feet from the front door. Sgt. Milmore stopped § 87(2)(b) by grabbing his arm to place him in handcuffs for their safety since § 87(2)(b) ran. No officer pushed § 87(2)(b) inside the apartment. At some point, the officers forced § 87(2)(b) to the ground, where he attempted to resist being placed in handcuffs by lying on his arms. The officers yelled, "Put your arms behind your back," but § 87(2)(b) did not comply. The officers grabbed § 87(2)(b)'s arms while on his back, pulled his arms around to his back, and handcuffed him. PO Rodriguez then searched § 87(2)(b) since the officers had been called to the location due to the presence of a man with a gun. No weapons were found on § 87(2)(b)'s person. Sgt. Milmore did not observe any injuries on § 87(2)(b).

Sgt. Milmore did not observe any other individuals inside the apartment at the time. There were two additional unidentified uniformed officers present while § 87(2)(b) was being searched, as they had followed Sgt. Milmore and PO Rodriguez inside the residence when they saw the officers run inside. The officers had responded to the same radio run as Sgt. Milmore and PO Rodriguez. Sgt. Milmore recalled that PO Rodriguez addressed § 87(2)(b) in Spanish, as he did not speak very much English. Sgt. Milmore did not speak Spanish and did not know what the content of their conversation was.

Sgt. Milmore stated that, although the officers never searched § 87(2)(b), § 87(2)(b) requested that they retrieve his identification, which was located in a different room inside the house. When an unidentified officer found § 87(2)(b)'s identification in a bedroom, the officer saw that he had two separate driver's licenses, with two different names. § 87(2)(b) was eventually charged with possessing counterfeit government documents. Sgt. Milmore stated that at no point while officers were inside the apartment was a closet door broken or a locked safe opened.

While the officers were talking to § 87(2)(b) a vehicle pulled up to the building and three individuals walked out. The individuals approached the officers and one, identified by the investigation as § 87(2)(b), informed Sgt. Milmore that he had placed a 911 call regarding his stepfather, § 87(2)(b). § 87(2)(b) stated § 87(2)(b) had pointed a gun at him and had chased him in a maroon minivan. The two other individuals with § 87(2)(b) confirmed that they had witnessed the incident with § 87(2)(b) and § 87(2)(b). The officers placed § 87(2)(b) under arrest and transported him to the stationhouse.

After § 87(2)(b) was arrested, officers canvassed the vicinity to locate the maroon minivan. The minivan was eventually located and unlocked. Spent shell casings were found inside on the floor behind the passenger seat in plain view. § 87(2)(b) was charged with § 87(2)(a) 160.50.

PO Daniel Beddows

PO Daniel Beddows provided a statement to the CCRB on April 29, 2009 (encl. 17a-17b). On January 9, 2009, PO Beddows, a § 87(2)(b)-old white male, worked with Sgt. Michael Milmore, PO Robert Roda, and PO Juan Rodriguez and was dressed in plainclothes. The officer was assigned to the anti-crime unit. PO Beddows had no memo book entries regarding the incident (encl. 16a-16b).

CCRB Statement: PO Daniel Beddows

On January 9, 2009, at approximately 8:00pm, PO Beddows received a call to respond to § 87(2)(b) in the Bronx since there was a report of a male with a firearm. Central provided a description of the individual as a Hispanic male wearing a striped sweater. Approximately three minutes later, the officers arrived at the scene. As the officers were inside the vehicle, PO Rodriguez first observed § 87(2)(b). PO Beddows also saw § 87(2)(b) and stated that he fit the description given by Central. The officers exited the vehicle with the intent of speaking to § 87(2)(b). PO Rodriguez told § 87(2)(b) "Police, may I speak with you?" § 87(2)(b) turned around and ran away from the officers and into his home. PO Beddows stated that § 87(2)(b) is a three family home.

Once § 87(2)(b) fled, PO Rodriguez and Sgt. Milmore ran after him and chased him inside his apartment. PO Beddows stated that § 87(2)(b) ran from the car, to his house which was approximately twenty-five to forty feet away. When PO Beddows entered the apartment, he observed Sgt. Milmore and PO Rodriguez attempting to handcuff § 87(2)(b) as § 87(2)(b) lay on his side on the floor in the kitchen. § 87(2)(b) was resisting by not placing his arms behind his back as the officers were trying to handcuff him. Sgt. Milmore and PO Rodriguez grabbed § 87(2)(b)'s arms to place them behind his back. PO Beddows and PO Roda did not touch § 87(2)(b). The officer stated that three other sector cars responded to the location. PO Beddows did not recall which uniformed officers responded, but mentioned that they were both male and female officers. The officer stated that he has not aware if any of the uniformed officers helped to handcuff § 87(2)(b). PO Beddows also mentioned that § 87(2)(b) did not understand English very well and stated that § 87(2)(b) spoke Spanish. PO Beddows stated that PO Rodriguez spoke to § 87(2)(b) in Spanish.

After § 87(2)(b) was placed in handcuffs, he was placed in the living room on the couch. At that point, PO Beddows and PO Roda stayed with § 87(2)(b) as Sgt. Milmore and PO Rodriguez spoke to the complainant on the second floor. PO Beddows stated that no one beside § 87(2)(b) and the officers were inside the apartment at the time.

PO Beddows mentioned that the apartment was searched because § 87(2)(b) gave PO Rodriguez consent to search the apartment. PO Beddows did not hear § 87(2)(b) give consent to PO Rodriguez since he did not speak Spanish. The officer stated that the consent was given in Spanish. PO Beddows did not know if § 87(2)(b) signed his name in a memo book as proof of consent. PO Beddows did not search the apartment, did not know who searched the apartment, or where the officers went in the apartment to search because Sgt. Milmore told PO Beddows and PO Roda to canvass the location for a vehicle since the complainant mentioned that there was a car that had a gun inside. The complainant stated that § 87(2)(b) showed them the gun while he was in the car. PO Beddows stated that he canvassed the location for approximately ten minutes. PO Beddows did not find the vehicle but another officer did. PO Beddows stated that he was not present when the search was conducted.

PO Beddows denied that a closet door was broken during the search and stated that later he was informed by PO Rodriguez that bullets were recovered from the location, but PO Rodriguez did not tell him where the bullets were found. PO Beddows stated that the gun was not found and he did not know what § 87(2)(b) was charged with.

PO Beddows denied that § 87(2)(b) was hit in the chest and pushed into the apartment. PO Beddows did not observe any injuries on § 87(2)(b). PO Beddows was not aware of a locked safe at the residence.

PO Robert Roda

PO Robert Roda was interviewed at the CCRB on May 19, 2009 (encl. 18a-18b). On January 9, 2009, PO Roda, a § 87(2)(b)-old white male, worked with Sgt. Michael Milmore, PO Juan Rodriguez, and PO Daniel Beddows and was dressed in plainclothes. PO Roda did not have his memo book present for the interview.

CCRB Statement: PO Robert Roda

On January 9, 2009, at approximately 8:00pm, PO Roda and his teammates responded to a radio run regarding a Hispanic male with a gun and shots fired at § 87(2)(b) in the Bronx. PO Roda stated that they responded to the location in under five minutes. PO Roda stated that there was a full

description of the suspect given by Central but he did not recall what it was. Once they arrived at the location, they saw § 87(2)(b) who matched the description given by Central. Once the officers noticed § 87(2)(b) they exited the vehicle. PO Roda stated that he did not know who noticed § 87(2)(b) first. PO Roda stated that he was suspicious of § 87(2)(b) since he matched the description of the radio run. The officers exited the vehicle with the intent to speak to § 87(2)(b).

PO Roda did not recall who spoke to § 87(2)(b) after he and his teammates exited their vehicle. PO Roda stated that § 87(2)(b) did not speak any English and stated that § 87(2)(b) spoke Spanish. The officer also mentioned that PO Rodriguez speaks Spanish, but he did not recall if PO Rodriguez spoke to § 87(2)(b). However, the officers told § 87(2)(b) "Police. Don't move." § 87(2)(b) proceeded to run inside § 87(2)(b). PO Roda described § 87(2)(b) as a two family house with a stair case of fewer than 10 steps that led to the front door. The officers chased § 87(2)(b) since "he was not free to leave" because he matched the description of the male who allegedly had a gun, and the officers had identified themselves as police officers. PO Roda stated that he did not know if any other officers responded to the location.

PO Roda entered § 87(2)(b) and observed § 87(2)(b) in the kitchen being placed in handcuffs by Sgt. Milmore and PO Rodriguez. During this time, § 87(2)(b) was resisting by flailing his arms. PO Roda stated that § 87(2)(b) was only flailing his arms and stated that he did not know if § 87(2)(b) hit anyone when he flailed his arms. PO Roda did not know when Sgt. Milmore and PO Rodriguez touched § 87(2)(b) or know what they did in order to subdue him. During this time, § 87(2)(b) and PO Bellows were standing in the main foyer after the front door, approximately ten feet away. § 87(2)(b) stated that he and PO Bellows did not have any physical contact with § 87(2)(b). He mentioned that it took a short period of time to handcuff § 87(2)(b).

After § 87(2)(b) was placed in handcuffs, PO Roda and PO Bellows watched him in the living room while Sgt. Milmore and PO Rodriguez spoke to the complainants. Once Sgt. Milmore returned, he instructed PO Roda and PO Bellows to canvass the location for a vehicle with Rhode Island license plates because the complainant mentioned that § 87(2)(b) used the vehicle when he shot at him. When PO Roda and PO Bellows left the apartment, § 87(2)(b) was still in the living room. PO Roda did not know that the apartment was searched. PO Roda denied that he searched the location and stated that he did not hear PO Rodriguez speaking to § 87(2)(b) in Spanish. PO Roda did not know if anything was damaged at the location especially a closet door and a safe. The officer did not observe any injuries to § 87(2)(b) and denied that he pushed him into the apartment or observed any officer doing so. The officer denied that he or any officer hit § 87(2)(b) on his chest. PO Roda canvassed the location, but did not know how long he canvassed for the vehicle. PO Roda returned to § 87(2)(b) after conducting the canvass, but he did not enter the location. PO Roda did not know what § 87(2)(b) was charged with at the stationhouse.

Roll Call

The roll call indicates that Sgt. Milmore was assigned as the anti-crime supervisor and Officers Beddows and Roda were assigned to the anti-crime unit. The roll call also indicates that PO Rodriguez was assigned to the Impact unit (encl. 19a-19k).

Command Log

The command log indicates that PO Rodriguez arrested § 87(2)(b) for § 87(2)(a) 160.50. The command log also described § 87(2)(b)'s apparent physical/mental condition as apparently normal. § 87(2)(b) was transferred to Bronx Central Booking at 10:10am (encl. 20a).

Arrest Photograph

§ 87(2)(b)'s arrest photograph shows no visible injuries (encl. 24a).

Sprint Print-Out

On January 9, 2009, at approximately 9:16pm, § 87(2)(b) called 911 and reported that his mother's husband threatened him with a gun. § 87(2)(b) informed the 911 operator that he left the location. At 11:07pm, anti-crime unit had one under (encl. 21a-21b).

CCRB Histories

§ 87(2)(b) has filed two prior complaints with the CCRB. § 87(2)(b)

PO Juan Rodriguez, a three-year veteran of the NYPD, has had no substantiated CCRB complaints. Sgt. Michael Milmore, a nineteen-year veteran of the NYPD, has had no substantiated CCRB complaints. PO Daniel Beddows, an eight-year veteran of the NYPD, has had no substantiated CCRB complaints. PO Robert Roda, a three-year veteran of the NYPD, has had no substantiated CCRB complaints.

Criminal Conviction History

§ 87(2)(b) [§§ 86(1)(3)&(4)] [§ 87(2)(c)]

Conclusions and Recommendations

Officer Identification

Once § 87(2)(b) returned to his residence, he alleged that an officer pushed him on his side against his door and he fell to the ground. § 87(2)(g)

After he was pushed, officers entered § 87(2)(b)'s residence. § 87(2)(g)

As § 87(2)(b) lay on the floor, he alleged that his arresting officer who spoke Spanish hit him approximately five times on his chest. PO Rodriguez was listed as § 87(2)(b)'s arresting officer. When interviewed, PO Rodriguez acknowledged that he spoke Spanish to § 87(2)(b) and stated no other member of his team spoke Spanish. For those reasons, the allegation was pled against PO Rodriguez.

After § 87(2)(b) was placed in handcuffs, he was seated in his living room where PO Rodriguez, Sgt. Milmore, PO Beddows, and PO Roda proceeded to search his home without his permission. Since the officers were inside § 87(2)(b)'s residence at the time, the allegation was pled against them. During the course of the search, § 87(2)(b) alleged that his closet door was broken. Since § 87(2)(b) testified that he did not see which officer broke the closet door, the allegation was pled against "an officer."

Undisputed Facts

§ 87(2)(b) called 911 to report that § 87(2)(b) menaced him with a machine gun. Sgt. Milmore, PO Rodriguez, PO Beddows, and PO Roda responded to the location. The officers entered § 87(2)(b)'s residence and placed him under arrest. After § 87(2)(b) was placed in handcuffs, his residence was searched.

Facts in Dispute

§ 87(2)(g)

Assessment of Evidence

Sgt. Milmore and Officers Rodriguez, Beddows, and Roda responded to a radio call regarding a man with a firearm at § 87(2)(b) in the Bronx. Once at the scene, the officers observed § 87(2)(b) outside his residence and attempted to stop him since he fit the description provided by Central. Since § 87(2)(b) testified that he left his home before his interaction with officers and § 87(2)(b) stated that § 87(2)(b) followed him in his vehicle after he left the residence, the investigation concludes that the officers first observed § 87(2)(b) as he returned to his home.

Based on the officers' statements, § 87(2)(b) was approached as he was standing outside his residence and ran into his home after the officers identified themselves as the police. Once § 87(2)(b) fled, Sgt. Milmore, PO Rodriguez, PO Beddows, and PO Roda pursued him into his home. Sgt. Milmore and PO Rodriguez stated that they pursued § 87(2)(b) inside the home since they were called to respond to a report regarding a

male with a firearm and the officers did not know if any civilians were inside the home at the time. PO Roda stated that § 87(2)(b) was “not free to leave” since he matched the description provided by Central as the individual with the firearm. The Sprint Print-Out confirmed that § 87(2)(b) placed the 911 call, reported § 87(2)(b) and provided the address for his location. All the officers are consistent in regards to seeing § 87(2)(b) outside his residence, fleeing from police after PO Rodriguez addressed him, and running toward the house reported by § 87(2)(b). Once § 87(2)(b) fled from the officers, it raised their suspicions that he had a gun. § 87(2)(b) testified that when he returned to his home an individual approached him and wanted to speak to him but he ignored the individual and proceeded to open his apartment door. § 87(2)(g)

Furthermore, once inside the apartment, § 87(2)(b) stated that PO Rodriguez asked him, “Why did you run?” § 87(2)(g)

§ 87(2)(b) alleged that as he opened the door to his residence, an officer pushed him on his right side and he fell to the floor. § 87(2)(b) changed his testimony and stated that police officers entered the apartment, grabbed him, and threw him to the floor. § 87(2)(b) testified that he did not know which officer pushed him. PO Rodriguez mentioned that as he followed § 87(2)(b) into the house, § 87(2)(b) tried to shut the door in his face and he placed his hands out to keep the door open. All the officers interviewed stated that they did not push § 87(2)(b) inside his apartment. § 87(2)(g)

Once inside the apartment, the officers testified that § 87(2)(b) resisted being placed under arrest. Based on the officers’ statements, § 87(2)(b) moved his body from side-to-side, flailed his arms, and refused to place his hands behind his back. PO Rodriguez testified that he grabbed § 87(2)(b) from behind and placed him in a “bear hug” position in order to restrain him. The officers acknowledged that § 87(2)(b) was on the ground at some point during the struggle. Sgt. Milmore stated that as § 87(2)(b) was on the floor he placed his arms underneath his body. The sergeant stated that he had to pull § 87(2)(b)’s arms around his back. § 87(2)(b) alleged that PO Rodriguez hit him approximately five times on his chest with his hand as Sgt. Milmore grabbed his arm, placed it behind his back, and put his knee on his head to keep it down. § 87(2)(g)

After § 87(2)(b) was placed in handcuffs, he was seated on his couch in the living room. § 87(2)(b) alleged that the officers began to search his apartment without his permission. PO Rodriguez and PO Beddows testified that § 87(2)(b) gave PO Rodriguez consent in Spanish to search the apartment. Sgt. Milmore denied that a search took place and PO Roda testified that he did not know if the apartment was searched. § 87(2)(g)

§ 87(2)(b) alleged that while the officers were searching his apartment, a closet door was broken. § 87(2)(b) testified that he was unable to identify which officer allegedly broke the door because he did not witness it. When interviewed, the officers denied breaking the closet door. § 87(2)(g)

Allegation A: PO Juan Rodriguez used physical force against § 87(2)(b)

§ 87(2)(g)

§ 87(2)(g)

According to *Police Department v. Freeman*, “in effecting an arrest, a police officer is permitted to use reasonable force to take a suspect into custody or to defend himself from the ‘imminent use of physical force’ by another” (encl. 1a-1f). § 87(2)(g)

Allegation B: Sgt. Michael Milmore entered and searched § 87(2)(b) in the Bronx.

Allegation C: PO Juan Rodriguez entered and searched § 87(2)(b) in the Bronx.

Allegation D: PO Daniel Beddows entered and searched § 87(2)(b) in the Bronx.

Allegation E: PO Robert Roda entered and searched § 87(2)(b) in the Bronx.

The officers testified that they received a radio call regarding a Hispanic male with a firearm at § 87(2)(b) in the Bronx. § 87(2)(b) testified that he reported his stepfather and provided 911 with his exact location. Once the officers arrived at the scene, they observed § 87(2)(b) outside the home mentioned in the radio run. The officers mentioned that § 87(2)(b) fit the description provided by Central and proceeded to stop him to ask him questions. Once the officers stopped § 87(2)(b) he fled into his home. Sgt. Milmore, PO Rodriguez, PO Beddows, and PO Roda admitted that they pursued § 87(2)(b) and entered his home since they did not know if there were any civilians in the house. Kamins explains that an officer “under the emergency doctrine, can enter premises without a warrant to protect individuals in distress, to assist victims of crimes that have just occurred, or to investigate suspicious signs of impending danger” (encl. 2a). § 87(2)(g)

After § 87(2)(b) was placed in handcuffs, his residence was searched by the police officers. § 87(2)(b) denied that he gave the officers permission to search his residence while PO Rodriguez and PO Beddows testified that he gave consent to PO Rodriguez in Spanish. Kamins explains that “during the investigation of an emergency situation, the police may search for weapons to protect themselves and others and may conduct a sweep to look for injured, missing, or under appropriate circumstances, armed individuals” (encl. 2b).

§ 87(2)(g)

Allegation F: An officer damaged § 87(2)(b) s property.

§ 87(2)(g)

Investigator:
Jacqueline Asencio

Date:

Supervisor:

Date:

Reviewed by:

Date:

Reviewed by:

Date: